

DRAFT Conditions of Approval – Bayfront Blocks K-L-M-O-P

LEGEND:

DEPARTMENT with primary responsibility for implementing the listed conditions of approval:

(B) = Building; (CA) = City Attorney; (F) = Fire District; (PL) = Planning; (PW) = Public Works,

1. **Minor Modifications:** The project being built will substantially comply with the attached plans (dated April 1, 2025) for the Bayfront Blocks K-L-M-O-P Project as submitted for the July 21, 2025, Planning Commission meeting, with any changes approved by the Planning Commission, unless otherwise amended by action of the City Council. Minor modifications to the project may be requested by the Owner and approved administratively by the City, in the reasonable discretion of the Community Development Director. The decision on amendments must be based on the standards that applied to the original project approval, and a minor change can only be approved or conditionally approved if the Community Development Director determines that the minor change is consistent with the spirit and intent of the original project approval and does not substantially change the effects of the approval on surrounding property. Minor modifications shall only be approved consistent with the provisions of the City of Hercules Zoning Ordinance, contained within the Hercules Municipal Code Title 13, Chapter 46, “Minor Modifications.” (PL)(B)
2. **SB 330 Preliminary Application Vesting Rights.** The housing development project shall commence construction within two and one-half (2.5) years following the date of final approval or the Owner will lose all vested rights received at the time the preliminary application was submitted (Gov. Code §65589.5 [o]).
3. **Indemnity Requirement:** Failure by the Owner to object to any of the terms, conditions, requirements and obligations set forth in this Design Review Permit prior to the expiration of the appeal period (which is 10 business days of the mailing or posting of the approving resolution) shall constitute acceptance of all of the conditions and obligations imposed by the City on this permit. The Owner by said acceptance waives any challenges as to the validity of these conditions. Owner agrees to indemnify and defend the City, its agents, officers and employees, at Owner’s own expense, against and from any claim, action or proceeding brought by any third party arising from or relating to the City’s processing of Owner’s development applications, the City’s issuance of any of the approvals described in these conditions, and the Owner’s implementation of and operations under the Design Review Permit, including but not limited to any claim, action or proceeding brought to attack, set aside, void or annul any of the City approvals described in these conditions, and any claim, action or proceeding brought against the City arising from or relating to Owner’s development and operation of the project that is the subject of such City approvals. City shall promptly notify Owner of any such claim, action or proceeding of which City receives notice, and City will fully cooperate with Owner in the defense thereof. Owner’s obligations under this condition shall include the obligation to reimburse the City for any court costs, reasonable attorney’s fees and damage awards which the City may be required to pay as a result of any such action. City may, in its sole discretion, participate in the defense of any such claim, action or proceeding and may elect to be represented by counsel of the City’s choosing at Owners’ expense, and such participation shall not relieve the Owner of any of the obligations of this condition. This condition shall apply as

written unless the Owner's development proposal for Blocks K, L, M, O, & P is determined to be consistent with and to conform to the Hercules Waterfront District Master Plan such that the indemnity requirement contemplated hereby is specifically controlled by the Implementing Development Agreement.

4. **Master Sign Program:** Prior to ordering or constructing any permanent commercial signage, the property owner shall submit and receive Community Development Director approval for an Administrative Design Review permit for signage.
5. **Architecture Related - Exterior Materials:** Actual building material samples showing material and finish of key elements on the buildings shall be reviewed and approved by the Community Development Director prior to building permit issuance. Material and color samples shall include—at a minimum—paint palette, brick veneer(s), painted stucco, smooth trowel plaster, cement board siding, metal storefront, lap siding, shingles, adhered tile, windows, doors, trim, and roof shingles. Final materials shall reflect the entitled design intent and shall be reasonably approved accordingly.
6. **Roof-Mounted Equipment:** Per HMC 13-31.300.10 all roof-mounted mechanical equipment, including but not limited to heating, ventilation, and air conditioning equipment, shall be recessed, grouped, and/or screened from adjoining property and public streets subject to reasonable approval of the Community Development Director. Plumbing vents, ducts, and other appurtenances protruding from the roof shall be integrated in such a manner that they will not be viewed from the front of the property or other highly visible vantage points. All vents, gutters, downspouts, flashings, conduits, etc. that are visible from outside the building shall be painted the color of the adjacent surface. A note shall be included on construction plumbing drawings of exterior elevations to indicate to contractors that roof features shall be grouped and located in the manner described. Roof vents shall be shown on construction drawings and painted to match roof material color. (PL/B)
7. **Project Fencing:** The details and location of all proposed project fencing, including material samples if needed, shall be submitted for staff review and approval prior to the issuance of building permits.
8. **Screening of Above Ground Utilities:** All above ground utilities visible from public rights of way shall be screened with landscaping, decorative materials, berming, or other means that are consistent with or complementary to the materials and style of the entitled landscape and neighborhood design. Above-ground utilities should be placed in locations that will allow space for screening elements, required utility access, and utility clearance requirements. Final materials and locations shall reflect the entitled design intent.
9. **Parking:**
 - a. **Parking Operations Agreement:** The project is subject to the Bayfront Project Parking Operations Agreement, effective June 27, 2023. Pursuant to the agreement, the Owner agrees to share a total of 10% of its private parking spaces (exclusively in Blocks E, G, J, K, L, M, N, O, P, Q and R) in the project for use by the public ("Shared Private Parking" spaces) when certain transit service or parking demand conditions are met or by mutual agreement between City and Owner, as detailed in Section 2.A. of the agreement.
 - 1) Owner agrees that at full-build-out of all aforementioned Blocks, subject to Covenant Commencement Events as detailed in Section 2.A of the agreement,

the 10% Shared Private Parking spaces will include a minimum of 176 and a maximum of 216 spaces.

- 2) If the Blocks do not include a minimum of 10% of the total Shared Private Parking spaces designated within each Block, the provision of Shared Private Parking shall be subject to adjustment pursuant to section 2.C of the Bayfront Project Parking Operations Agreement.

- b. On-Street Parking:** The duration of parking allowed on any street parking spaces located on John Muir Parkway, Bayfront Loop, Shoreline Loop, and on the EVA/private road between Blocks shall be determined by the City or other appropriate entity (e.g., parking district), with all related signage, striping, and potentially parking meters funded by the Owner or duly-formed parking district.
 - c. Electric Vehicle (EV) Parking:** The number of EV parking spaces in the garages shall be as required by the current CALGreen Code when the building permit is submitted. EV parking spaces shall be shown on drawings included with the Building Permit submittal. (PL)(B)

10. **Refuse/Trash Collection and Construction Debris:** Republic Services (a.k.a., Richmond Sanitary Service) is the exclusive franchised solid waste hauler for the City of Hercules. Republic Service's exclusive collection rights include collection of all solid waste in the City, including construction and demolition (C&D) waste from construction and demolition projects in the City. (PL)
11. **Graffiti Prevention and Control:** The Owner/Owner shall maintain the site free of graffiti. Graffiti applied to any surface of the subject property shall be removed within forty-eight (48) hours of the Owner/Owner being notified by the City. The City may remove the graffiti if the Owner/Owner fails to remove the graffiti within forty-eight (48); the Owner/Owner shall reimburse the City for the graffiti-removal work. (PL)
12. **Storm Water Basin "Fair Share":** Owner shall pay any required fair-share contribution for the existing regional stormwater treatment facilities as part of the Community Facility District installed during the "Path To Transit" project, City Project Number 63001D, which serves multiple private parcels including the Hercules Waterfront District Transit Village area, in conformance with the Implementing Development Agreement and Vesting Tentative Map. Furthermore:
 - a.** Only untreated stormwater runoff shall be conveyed into the shared stormwater treatment basin and said flow shall not exceed the Owner's allotted portion of the basin. (PW)
 - b.** On-site stormwater which has been treated in accordance with the Contra Costa Clean Water Program may be discharged into a City storm drain pipe if there is adequate capacity or water bodies if permits are obtained from the regulatory agencies and the design is approved by the City. (PW)
13. **Easement for Storm Drainage Maintenance:** Owner shall provide an easement for City maintenance of storm drainage facilities, where applicable and as determined by the City, before building permit issuance. (PW)
14. **Utility Pipe Sizes:** Utility pipe sizes to be shown and signed off by City Public Works Director as adequate before building permit issuance. (PW)

15. **Street Repair:** Should the Owner cut into existing City streets (Bayfront Boulevard and John Muir Parkway), the Owner shall restore such streets to their condition prior to Owner's work and shall slurry seal and stripe (with thermoplastic) the adjacent streets in coordination with the City Engineer and Public Works when the project is completed. (PW)
16. **Required Public Improvements:** The Owner is required to fund and construct all public improvements as depicted on the project plans, including Bayfront Loop and Shoreline Loop roads and any changes and/or repairs needed to the Bayfront Boulevard and John Muir Parkway frontages in accordance with City of Hercules Design Standards and subject to the approval of the City Engineer. (PW)
17. **Pedestrian Access:** Accessible routes and all ramps shall comply with all current applicable ADA access requirements and City Standards. (PW)
18. **Pedestrian Bulb-Outs:** Pedestrian bulb-outs shall be removed and replaced with crosswalks at the intersection of Bayfront Boulevard and John Muir Parkway to the extent allowed by the City Engineer in consultation with the Fire Department. (PW / F)
19. **Participation in Street Lighting/Landscape District:** Owner shall either continue participation in the existing Lighting and Landscaping Assessment District No. 83-2 for the "Developed Property" rate or form another financing district acceptable to the City to finance the operation, maintenance, servicing and capital replacement costs associated with the landscaping and lighting in public right-of-way unless maintenance is provided by other means. (PW)
20. **On-Site Maintenance:** The property owner or Homeowners Association (if and when formed) shall be responsible for the operation, maintenance, servicing, and capital replacement of all areas not operated and/or maintained by individual property owners. This includes all parking (but does not include those in public streets), landscaping, open space, streetlights, alleys, pedestrian paseos, and non-public areas held in common by the association, required for property maintenance. The property owner or association shall be responsible for enforcement of any recorded Covenants, Conditions, and Restrictions (CC&R) related to property maintenance. (PW)
21. **Impervious Surfaces / Stormwater Treatment:** With construction of any impervious surfacing, permanent stormwater treatment facilities shall be constructed and in service prior to the issuance of the first certificate of occupancy. (PW)
22. **Construction Damage to Roadways:** Once building construction has been completed in the vicinity, Owner shall repair and restore damage to John Muir Parkway and Bayfront Boulevard caused by Owner's construction within the Bayfront Project limits. As needed, restoration shall include but is not limited to repairs to all damaged curbs and gutters, replacement of damaged landscaping, irrigation repairs, grinding, asphalt concrete overlay, and striping of said streets. Owner shall also repair any damage caused by project-related truck traffic to John Muir Parkway from Bayfront Boulevard to San Pablo Boulevard. Repairs may include but are not limited to patching, slurry sealing, striping, grinding, and asphalt concrete overlay, as needed. Nothing in this condition shall create any responsibility on the part of the Owner for roadway damage or deterioration shown to be caused by vehicles other than those used in Owner's construction activities. (PW)

23. **Final Map/Public Access/Rights of Way:** Prior to the issuance of Building Permits, a Final Map shall be recorded, subject to City approval, that covers the geographic area occupied by Blocks K, L, M, O, and P, including the area of the proposed 55-foot wide easement for driveway, pedestrian access and parking purposes on the property adjoining the Project to the south (Blocks Q and R) as depicted in the Project plans.
- a. The Final Map shall include an offer for dedication to the City for the 66-feet of right-of-way for the segment of the Bayfront Loop road and the varying width segment of Shoreline Loop road as depicted in the Project plans.
 - b. The Owner shall acquire a 55-foot wide easement from the owner of the adjoining property to the south of the Project (Blocks Q and R) to provide for the construction, use and maintenance of the driveway, sidewalk and parking improvements to be constructed by the Project between the east end of Bayfront Loop and the west boundary of the Bio-Rad property, as depicted on the Project plans. Said easement shall be shown on the Final Map and shall be recorded prior to or concurrently with the map.
 - c. The Final Map shall include the relocation of the existing public street right-of-way line at the north side of Bayfront Boulevard (at Buildings K1 and K6) and the east side of John Muir Parkway (at Buildings O1 and O6), and the proposed public street right-of-way line at the north side of Bayfront Loop (at Building L1) so that said right-of-way lines will be located at the back of the adjacent roadway curb, thereby placing the arcade areas and the building overhangs of said buildings on the private property side of the right-of-way lines. A “Public Sidewalk Easement” shall be offered for dedication to the City on the Final Map for the portions of the sidewalk in these areas that will be outside of the resulting public street right-of-way. The property owner or Homeowners Association (if and when formed) shall be responsible for the maintenance and capital replacement costs for all structures and improvements, including the sidewalk, situated within any “Public Sidewalk Easement”.
 - d. Owner shall enter into an agreement with the City to maintain any improvements, including any park improvements, constructed on City property, and indemnifying the City. An easement shall be recorded for these improvements and an encroachment permit from the Engineering Division will be required to construct said improvements. Maintenance shall include any incremental costs of restoration of that portion of the improvements on City property.
 - e. The Final Map shall include a “Park Easement” for the Neighborhood Park at Block MP.
 - f. The Final Map shall include the “Emergency Vehicle Access Easements”, “Public Access Easements” and “Public Utility Easements” over the private alleys and adjacent areas within the Project.
 - g. At the Owner’s election, an easement over landscaping areas in the public right of way may be recorded to allow the Owner/Homeowners Association to perform maintenance in lieu of participation funding through the existing lighting and landscaping district, which is otherwise responsible for maintaining the improvements. (PW)
24. **Fire District Requirements:** Owner/ shall conform to the applicable requirements of the Contra Costa County Fire Protection District in accordance with the provisions of the CA Fire Code (CFC), Building Code (CBC), local ordinances, and adopted standards.

25. Land Development Permit Required: A land development permit is required for access and water supply review and approval prior to submitting building construction plans. The Owner shall submit scaled site improvement plans indicating:

- a. All existing or proposed hydrant locations
- b. Fire apparatus access to include slope and road surface
- c. Aerial fire apparatus access
- d. Elevations of building
- e. Size of building and type of construction
- f. Gates, fences, retaining walls, bio-retention basins, any obstructions to access
- g. Detail showing the lowest level of fire department vehicle access and the floor level of the highest occupied floor
- h. Striping and signage plan to include "NO PARKING-FIRE LANE" markings
- i. Provide drawings for paths from the public way to under emergency escape and rescue openings showing a proposed clear path and clear space under these openings that allow.

26. New Construction Permit Required: The Owner shall submit separate building construction plans and specifications for each building within the subject project to the Fire District for review and approval. After the new construction plans are approved, plans and specifications for all deferred submittals shall be submitted, including, but not limited to the following:

- a. Private underground fire service water mains
- b. Fire Sprinklers
- c. Standpipe
- d. Fire Alarm
- e. Fire Pump (if required)
- f. Energy Systems (if applicable)
- g. Emergency Generator (if required)
- h. Photovoltaic
- i. Emergency Responder Radio (ERRCS) (if required)

27. Aerial Access Required: Access as shown on Sheets C4.1 through C4.3 appears to comply with Fire District requirements. The requirements are as follows:

- a. Aerial Fire Apparatus Access is required where the vertical distance between grade plane and the highest roof surface exceeds 30 feet as measured in accordance with Appendix D, Section 105 of the CFC. Aerial access roads shall have a minimum unobstructed width of 26 feet, exclusive of shoulders, in the immediate vicinity of the building or portion thereof. At least one of the required routes shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. Overhead utility and power lines shall not be located

over the aerial fire apparatus access road or between the aerial fire apparatus road and building.

- b. All non-aerial apparatus access roads shall comply with the following. Emergency apparatus access roadways shall be provided with all-weather (paved) driving surfaces of not less than 20-feet unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access shall have a minimum outside turning radius of 45 feet, minimum inside turning radius of 25 feet, and must be capable of supporting the imposed fire apparatus loading of 37 tons. Access roadways shall not exceed 20% grade. Grades exceeding 16% shall be constructed of grooved concrete per the attached Fire District standard. Cross grades shall not exceed 8%. (503) CFC, CCCFPD Ordinance.

28. Fire Lane Identification: Provide fire lane identification as required:

- a. Access roadways of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words: *NO PARKING – FIRE LANE* clearly marked. (22500.1) CVC, (503.3) CFC.
- b. Access roadways of 28 feet or greater, but less than 36-feet unobstructed width shall have *NO PARKING – FIRE LANE* signs posted, allowing for parking on one side only or curbs painted red with the words *NO PARKING – FIRE LANE* clearly marked. (22500.1) CVC, (503.3) CFC.

29. Adequate Water Supply for Firefighting Operations: During the official Land Development Permit review process. The Owner shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code. (507.1) CFC

**Request a flow test from the Fire District office. Email the Fire District's Permit Technicians at permittech@cccfd.org to request an application and begin the request process.*

30. Emergency Escape and Rescue Openings: Provide emergency escape and rescue openings in Group R occupancies of Type V construction. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening. Such openings shall open directly into a public way or to a yard or court that opens to a public way. Landscaping, signage and other obstructions must not hinder the positioning of firefighting ground ladders from apparatus access to the rescue windows. Access to Emergency Escape and Rescue openings by ground ladders shall be from an approved emergency access road, ladder pad with an all-weather, slip-resistant cover. The ladder pad shall be sized at a minimum 6-foot wide by 7-foot deep. A ground ladder diagram and plan sheet shall be provided as part of the Land Development plan submittal. For more information, contact the Fire District Permit Technicians at permittech@cccfd.org. (1031.3) CFC

31. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC

32. Fire Sprinkler Systems Required: Based on the proposed plans provided, the buildings as proposed shall be protected with an approved automatic fire sprinkler system complying with the current, adopted edition of NFPA 13 or 13R. The type of system will be determined at the New Construction Phase, as the information on the plans provided were limited. (903.2) CFC

33. **Emergency Responder Radio Coverage.** New buildings shall have approved radio coverage for emergency responders. An emergency responder radio coverage system shall be installed when the conditions of CFC 510.4.1 are not met. Testing shall be conducted and the results submitted to the Fire District prior to the building final. (510.1) CFC
34. **Maintenance of Access to Open Land.** Where existing access to open land or space, or to fire trail systems maintained for public or private use is obstructed by new development of any kind, the Owner shall provide an alternate means of access into the area that is sufficient to allow access for fire personnel and apparatus. These access roadways shall be a minimum of 16 feet in width to accommodate Fire District equipment. Access locations will be determined by this office upon submittal of complete improvement plans. Contra Costa County Ordinance 2022-34.

Fire Safety and Site Maintenance during Construction

35. **FCL Requirements.** Flammable or combustible liquid storage tanks shall *not* be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
36. **Portable Generators.** Portable generators used at construction sites shall comply with Section 1204. (3309) CFC
37. **Abatement Maintenance.** The owner shall cut down and remove all weeds, grass, vines, or other growth that is capable of being ignited and endangering property. (304.1.2) CFC
38. **Portable Fire Extinguishers Required.** All homes under construction shall be provided with not less than one approved portable fire extinguisher at each stairway on all floor levels, every storage shed, and next to any portable generator or energy system on site.
39. **Fire Apparatus Access during Construction.** Fire apparatus access to the site shall be maintained at all times of grading and construction.
- a. Vehicles shall not block fire apparatus access.
 - b. Trash/Rubbish shall not accumulate within the homes and shall be removed from buildings at the end of each shift of work. (3305.2.1-3305.2.2).
 - c. Trash/Rubbish containers shall not be placed in a location that blocks fire apparatus access roads.
 - d. Smoking shall be prohibited except in approved areas. Signs shall be posted in accordance with Section 310. In approved areas where smoking is permitted, approved ashtrays shall be provided in accordance with Section 310. (3305.1) CFC
 - e. **Site Safety Director.** In accordance with Chapter 33 the Owner or on-site general contractor project manager, shall establish a fire prevention program that is applicable throughout all phases of construction. The Owner shall provide the following information on the site safety director: 1. Name and contact information of the project manager/site safety director.
 - 1) Procedures for reporting emergencies.
 - 2) Smoking and cooking policies, designated areas to be used where approved, and signage locations in accordance with Section 3305.8.
 - 3) Location and safety considerations for temporary heating equipment.

- 4) Hot work permit plans (if applicable).
- 5) Plans for control of combustible waste material.
- 6) Locations and methods for storage and use of flammable and combustible liquids.
- 7) Location of the building material during the phases of subdivision construction.
- 8) Provisions for site security.

f. Failure to comply with Chapter 33 of the California Fire Code will result in violations and possible fees.

40. **Affordable Housing:** The Project shall contain a minimum of 10 affordable housing units out of the 168 total units proposed. Affordable housing shall be dispersed throughout the complex in accordance with Section II.D of Exhibit “E” of the IDA and applicable components of the Affordable Housing Plan Implementation Agreement so that the Owner shall not build any building or residential development within the Project in such a manner as to include more than 35% Affordable Units.

Owner at City’s request shall meet and confer in good faith on the administrative implementation of affordable housing requirements in accordance with Section III of Exhibit “E” of the IDA, the cost of said implementation to be at the sole cost and expense of Owner or Owner's successor in interest. All affordable housing units shall be affordable to residents with income levels at or below 60% of the County median income level; provided, however, that this affordability requirement may be modified in accordance with Section II.A of Exhibit “E” of the IDA. The Property Owner shall record covenants on the property requiring specific units to be maintained as permanently affordable with an annual report provided to the City to submit with its annual report to the State.

41. **Fees Required:** Owner shall pay their fair share costs of traffic mitigation fees as identified in the Traffic Assessment Report as part of the 2011 Bayfront Plan EIR in addition to Parks and Recreation Facilities, General Public Facilities, Police Facilities, Fire Facilities, Sewer Facilities, Community Development Tax, West County Sub-regional Transportation Mitigations Fee (STMP), all other fees that are applicable to the project under both applicable regulations and the Implementing Development Agreement (IDA), and all other applicable building permit fees imposed by the City in the Master User Fee list and other public and regulatory agencies (provided that such fees are authorized under the IDA), and all applicable processing charges, prior to the issuance of building permits. For Blocks K-L-M-O-P: (a) the Owner shall pay the full Public Benefit Fee as set forth in Exhibit I to the IDA (so long as the condition to such payment as set forth in Section 3.1 of the IDA has been satisfied), and if Owner pays the full Public Benefit Fee, it shall not be required to pay the sewer connection fee; provided, however, that if the Owner does not pay the full Public Benefit Fee, both the City and the Owner reserve their rights regarding the payment or non-payment of the sewer connection fee.

42. **Applicable Conditions of Implementing Development Agreement:** In addition to the foregoing conditions, the project shall be subject to the applicable Conditions of Approval contained in the Implementing Development Agreement attached herein as Exhibit B, which includes general conditions as well as mitigation measures to be carried out by the Owner.

43. **Applicable Mitigation Measures:** The Bayfront Environmental Impact Report (EIR; State Clearinghouse #2009112058) includes a set of mitigation measures that apply to projects proposed within the larger Bayfront project area. In addition to the foregoing conditions, the project shall be subject to those mitigation measures applicable to this specific portion of the overall project.

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